

RESOLUTION NUMBER: 14-956

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTSVILLE,
A MUNICIPAL CORPORATION WITHIN THE STATE OF ALABAMA,
APPROVING OF AND ASSENTING TO VACATION OF,
AND VACATING, A PORTION OF NATIONAL BOULEVARD AND MEADOWBROOK DRIVE
ABUTTING THE NEW GRISSOM HIGH SCHOOL CAMPUS

WHEREAS, HUNTSVILLE CITY BOARD OF EDUCATION, political subdivision of the State of Alabama (herein referred to as "Owner"), is the owner of all of the real property abutting the hereinafter-described street which is situated and lying and being within the limits of the City of Huntsville, County of Madison, State of Alabama (herein referred to as the "City"), to-wit:

A part of the SW ¼, Section 31, Township 4S, Range 1E, in Madison County, Alabama and being more fully described as follows:

Commencing at the Southwest corner of section 31, T-4-S, R-1-E of the Huntsville Meridian, Madison County, Alabama, said point being further described as lying on the South boundary line of Lot 1 of National Subdivision Third Addition, as recorded in Document No. 20130404000216180 in the Office of the Judge of Probate of Madison County, Alabama;

thence from the Point of Commencement and running along said South boundary line, S 88°46'25" E, a distance of 906.42 feet to a point on the East boundary line of said Lot 1;

thence running along said East boundary line, N 01°19'52" E, 671.11 feet to a point on the North boundary line of said Lot 1, also being the South Right-of-Way margin of Meadowbrook Drive (having a Right-of-Way of 60 feet);

thence along said North boundary line and said South Right-of-Way margin, N 88°39'58" W, 296.18 feet to the Point of Beginning;

thence from the Point of Beginning running along said South Right-of-Way margin and a curve to the left having a chord bearing and distance of S 51°23'02" W, 44.95 feet and a radius of 35.00 feet to a point;

thence continuing along said South Right-of-Way margin, N 78°33'47"W, 90.32 feet to a 5/8" capped rebar stamped "Smith" on the East boundary line of said Lot 1 and also being on the West Right-of-Way margin of National Boulevard (having a Right-of-Way of 90 feet);

thence running along said East boundary line and said West Right-of-Way margin and along a curve to the left having a chord and distance of N 10°38'26" E, 13.19 feet and a radius of 455.00 feet to a point;

thence leaving said East boundary line and said West Right-of-Way margin, S 88°39'58" E, 121.24 feet to the Point of Beginning.

The above described Right-of-Way contains 0.048 acres, (2094 square feet) more or less.

("Street");

and

WHEREAS, the City Council is the governing body of the City; and

WHEREAS, heretofore, the Owner has executed and submitted(a) a written Declaration of Vacation (herein referred to as the "Declaration of Vacation") and (b) a written Petition for Approval of, and Assent to, Vacation of Street (herein referred to as the "Petition") (complete, correct, full, genuine and true copies of which are attached hereto as Exhibits "A" and "B", respectively, and by this reference are incorporated herein) evidencing the Owner's desire and intent that the Street be vacated, thereby divesting from the City and the public, and investing into the Owner, any and all right, title, claim and interest which the City and the public may have in and to the Street which heretofore may have been acquired by or dedicated to the City and the public by virtue of prescription, public user or otherwise; and

WHEREAS, due and proper notice of the hearing on this vacation has been given by (a) publication once a week for four (4) consecutive weeks in *The Huntsville Times*, (b) posting at the Huntsville Madison County Courthouse and (c) mailing to the Electric, Natural Gas, and Water, Departments of Huntsville Utilities, all in the form, substance and time periods required by applicable law; and

WHEREAS, the City Council of the City finds:

- (1) That the name of the owner of the lot or parcel of land abutting the Street is the Huntsville City Board of Education, a political subdivision of the State of Alabama, i.e. the Owner;
- (2) That there are no other owners of lots or parcels of land abutting the Street which will be cut off from access thereby over some other reasonable and convenient way;
- (3) That it is in the interest of the public that the Street be vacated;
- (4) That the Street is no longer needed for public or municipal purposes;
- (5) That the retention of the Street will not benefit the City or the public;
- (6) That vacation of the Street will not deprive other property owners of such right as they may have to adequate, convenient, and reasonable means of ingress and egress to and from their respective real properties, which such right is afforded by remaining streets and alleys within the City; and
- (7) That no owner of real property served by the Street objects to the vacation of the same.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City:

1. That the City Council of the City does hereby approve of and assent to the Owner's Declaration of Vacation and the Petition, and does hereby vacate the Street, so that the Street be, and the same is hereby, vacated, thus divesting from the City and the public, and investing into the Owner, any and all right, title, claim and interest of the City and of the public in and to the Street which heretofore may have been acquired by or dedicated to the City and the public by virtue of prescription, public user or otherwise.

2. That the Declaration of Vacation does not deprive other property owners of such right as they may have to adequate, convenient, and reasonable means of ingress and egress to and from their respective real properties, which such right is afforded by remaining streets and alleys within the City.

3. That a copy of this Resolution, certified by the City Clerk-Treasurer or other clerk or ministerial officer in charge of the records of the City, shall be attached to, filed and recorded with the Declaration of Vacation in the Office of the Judge of Probate of Madison County, Alabama, by Owner at Owner's expense.

4. That, upon recordation in the Office of the Judge of Probate of Madison County, Alabama, (a) the Declaration of Vacation and the Petition, together with a certified copy of this Resolution, shall operate to destroy the force and effect of the dedication of the Street and to divest all public rights, including any rights which may have been acquired by prescription, public user or otherwise in and to the same, and (b) title and all public rights, including the right to close, the Street hereby vacated shall vest in the Owner.

5. That the City Clerk-Treasurer shall cause notice of adoption of this Resolution, and vacation of the Street, to be published in *The Huntsville Times* no later than fourteen (14) days after the adoption of this Resolution, all in the form and substance required by applicable law."

ADOPTED on this the 12 day of March, 2015.

Mark Russell,
as President of the City Council of
the City of Huntsville,
a municipal corporation
within the State of Alabama

APPROVED on this the 12 day of March, 2015.

Tommy Battle,
as Mayor of the City of Huntsville,
a municipal corporation within the
State of Alabama

STATE OF ALABAMA)
)
COUNTY OF MADISON)

DECLARATION OF VACATION

THIS DECLARATION OF VACATION is made and entered into as of the 16th day of December, 2014, by HUNTSVILLE CITY BOARD OF EDUCATION, a political subdivision of the State of Alabama (herein referred to as "Owner").

WITNESSETH:

WHEREAS Owner is the owner of all of the real property abutting a portion of National Boulevard and Meadowbrook Drive particularly described as follows:

A part of the SW ¼, Section 31, Township 4S, Range 1E, in Madison County, Alabama and being more fully described as follows:

Commencing at the Southwest corner of section 31, T-4-S, R-1-E of the Huntsville Meridian, Madison County, Alabama, said point being further described as lying on the South boundary line of Lot 1 of National Subdivision Third Addition, as recorded in Document No. 20130404000216180 in the Office of the Judge of Probate of Madison County, Alabama;

thence from the Point of Commencement and running along said South boundary line, S 88°46'25" E, a distance of 906.42 feet to a point on the East boundary line of said Lot 1;

thence running along said East boundary line, N 01°19'52" E, 671.11 feet to a point on the North boundary line of said Lot 1, also being the South Right-of-Way margin of Meadowbrook Drive (having a Right-of-Way of 60 feet);

thence along said North boundary line and said South Right-of-Way margin, N 88°39'58" W, 296.18 feet to the Point of Beginning;

thence from the Point of Beginning running along said South Right-of-Way margin and a curve to the left having a chord bearing and distance of S 51°23'02" W, 44.95 feet and a radius of 35.00 feet to a point;

thence continuing along said South Right-of-Way margin, N 78°33'47"W, 90.32 feet to a 5/8" capped rebar stamped "Smith" on the East boundary line of said Lot 1 and also being on the West Right-of-Way margin of National Boulevard (having a Right-of-Way of 90 feet);

thence running along said East boundary line and said West Right-of-Way margin and along a curve to the left having a chord and distance of N 10°38'26" E, 13.19 feet and a radius of 455.00 feet to a point;

thence leaving said East boundary line and said West Right-of-Way margin, S 88°39'58" E, 121.24 feet to the Point of Beginning.

The above described Right-of-Way contains 0.048 acres, (2094 square feet) more or less.

The right of way referred to above is shown on the plat of the National Subdivision Third Addition recorded as Document No. 20130404000216180 in the Probate Records of Madison County, Alabama ("Street"), and is situated and lying and being within the corporate limits of the City of Huntsville, County of Madison, State of Alabama (herein referred to as the "City"); and

WHEREAS, the Owner desires to vacate the Street; and

WHEREAS, adequate, convenient and reasonable means of ingress and egress are available to the Owner and other owners of real properties within the general vicinity of the Street by virtue of remaining streets and alleys within the City; and

WHEREAS, heretofore, the Street was acquired by, and dedicated to, the City and the public.

NOW, THEREFORE, pursuant to Sections 23-4-2, 23-4-5, 23-4-20 and 35-2-54 of the Alabama Code of 1975, and other applicable law, all as last amended, the Owner, as the owner of all real property abutting the Street, do hereby declare:

1. That the Street which is more particularly described as:

A part of the SW ¼, Section 31, Township 4S, Range 1E, in Madison County, Alabama and being more fully described as follows:

Commencing at the Southwest corner of section 31, T-4-S, R-1-E of the Huntsville Meridian, Madison County, Alabama, said point being further described as lying on the South boundary line of Lot 1 of National Subdivision Third Addition, as recorded in Document No. 20130404000216180 in the Office of the Judge of Probate of Madison County, Alabama;

thence from the Point of Commencement and running along said South boundary line, S 88°46'25" E, a distance of 906.42 feet to a point on the East boundary line of said Lot 1;

thence running along said East boundary line, N 01°19'52" E, 671.11 feet to a point on the North boundary line of said Lot 1, also being the South Right-of-Way margin of Meadowbrook Drive (having a Right-of-Way of 60 feet);

thence along said North boundary line and said South Right-of-Way margin, N 88°39'58" W, 296.18 feet to the Point of Beginning;

thence from the Point of Beginning running along said South Right-of-Way margin and a curve to the left having a chord bearing and distance of S 51°23'02" W, 44.95 feet and a radius of 35.00 feet to a point;

thence continuing along said South Right-of-Way margin, N 78°33'47"W, 90.32 feet to a 5/8" capped rebar stamped "Smith" on the East boundary line of said Lot 1 and also being on the West Right-of-Way margin of National Boulevard (having a Right-of-Way of 90 feet);

thence running along said East boundary line and said West Right-of-Way margin and along a curve to the left having a chord and distance of N 10°38'26" E, 13.19 feet and a radius of 455.00 feet to a point;

thence leaving said East boundary line and said West Right-of-Way margin, S 88°39'58" E, 121.24 feet to the Point of Beginning.

The above described Right-of-Way contains 0.048 acres, (2094 square feet) more or less.

be, and the same is hereby, vacated, subject to the required approval of, and assent to, such vacation by the City Council of the City.

2. That, by Petition for Approval of and Assent to Vacation of, and to Vacate, Street dated December 16th, 2014 (the "Petition"), Owner has requested the City Council of the City to vacate the Street, and has represented to the City Council of the City that, to the best of Owner's actual knowledge:

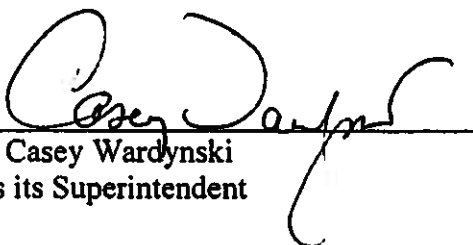
- a. There are no other owners of lots or parcels of land abutting the Street which will be cut off from access thereby over some other reasonable and convenient way;
- b. It is in the interest of the public that the Street be vacated;
- c. The Street is no longer needed for public or municipal purposes;
- d. The retention of the Street will not benefit the City or the public;
- e. Vacation of the Street will not deprive other property owners of such right as they may have to adequate, convenient, and reasonable means of ingress and egress to and from their respective real properties; and
- f. No owner of real property served by the Street objects to the vacation of the same.

3. That copies of (a) said Petition and (b) a duly enacted resolution (the "Resolution") adopted by the City Council of the City (which is the governing body of the City) (i) approving of and assenting to this Declaration of Vacation, and (ii) vacating the Street (which copies shall be certified by the City Clerk-Treasurer or other clerk or ministerial officer in charge of the records of the City) shall be attached to, filed and recorded with this Declaration of Vacation in the Office of the Judge of Probate of Madison County, Alabama, by Owner at Owner's expense.

4. That, (a) upon approval of and assent to this Declaration of Vacation, and vacation of the Street, by said Resolution of the City Council of the City after notice and hearing as required by applicable law, and (b) recordation of this Declaration of Vacation, said Petition and said Resolution in the Office of the Judge of Probate of Madison County, Alabama, this Declaration of Vacation and said Resolution shall operate to destroy the force and effect of the dedication of the Street and to divest all public rights, including any rights which may have been acquired by prescription, public user or otherwise, in and to the same, and to invest the same in and to the Owner.

IN WITNESS WHEREOF, the HUNTSVILLE CITY BOARD OF EDUCATION, a political subdivision of the State of Alabama, as owner of all of the real property abutting the Street, has caused this Declaration of Vacation to be executed the 24 day of February, 2015, effective as of the 16th day of December, 2014.

HUNTSVILLE CITY BOARD OF EDUCATION

By: 
E. Casey Wardynski
As its Superintendent

STATE OF ALABAMA)
)
COUNTY OF MADISON)

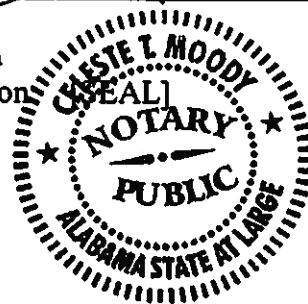
I, Celeste T. Moody, a Notary Public in and for said County in said State, hereby certify that E. Casey Wardynski, whose name as Superintendent of the HUNTSVILLE CITY BOARD OF EDUCATION, a political subdivision of the State of Alabama, is signed to the foregoing Declaration of Vacation, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing Declaration of Vacation, he, as such officer and with full authority, executed the same voluntarily for and as the act of the said HUNTSVILLE CITY BOARD OF EDUCATION, a political subdivision of the State of Alabama.

GIVEN UNDER MY HAND and official seal on this the 24 day of February 2015.

Celeste T. Moody

My Commission Expires 02-12-2017
My Commission Expires 02-12-2017

Notary Public
State of Alabama
County of Madison



THIS INSTRUMENT WAS PREPARED BY: Y. ALBERT MOORE, OF LANIER FORD SHAVER & PAYNE P.C., ATTORNEYS-AT-LAW, 2101 CLINTON AVENUE WEST, SUITE 102, HUNTSVILLE, ALABAMA 35805, TELEPHONE NUMBER: (256) 535-1100.

STATE OF ALABAMA)
)
COUNTY OF MADISON)

**PETITION FOR APPROVAL OF AND ASSENT TO
VACATION OF, AND TO VACATE, STREET**

THIS PETITION FOR APPROVAL OF AND ASSENT TO VACATION OF, AND TO VACATE, STREET ("Petition") is made as of the 16th day of December, 2014, by HUNTSVILLE CITY BOARD OF EDUCATION (herein referred to as "Owner") to the CITY COUNCIL OF THE CITY OF HUNTSVILLE, a municipal corporation within the State of Alabama ("City").

WITNESSETH:

WHEREAS Owner is the owner of all of the real property abutting a portion of National Boulevard and Meadowbrook Drive particularly described as follows:

A part of the SW ¼, Section 31, Township 4S, Range 1E, in Madison County, Alabama and being more fully described as follows:

Commencing at the Southwest corner of section 31, T-4-S, R-1-E of the Huntsville Meridian, Madison County, Alabama, said point being further described as lying on the South boundary line of Lot 1 of National Subdivision Third Addition, as recorded in Document No. 20130404000216180 in the Office of the Judge of Probate of Madison County, Alabama;

thence from the Point of Commencement and running along said South boundary line, S 88°46'25" E, a distance of 906.42 feet to a point on the East boundary line of said Lot 1;

thence running along said East boundary line, N 01°19'52" E, 671.11 feet to a point on the North boundary line of said Lot 1, also being the South Right-of-Way margin of Meadowbrook Drive (having a Right-of-Way of 60 feet);

thence along said North boundary line and said South Right-of-Way margin, N 88°39'58" W, 296.18 feet to the Point of Beginning;

thence from the Point of Beginning running along said South Right-of-Way margin and a curve to the left having a chord bearing and distance of S 51°23'02" W, 44.95 feet and a radius of 35.00 feet to a point;

thence continuing along said South Right-of-Way margin, N 78°33'47"W, 90.32 feet to a 5/8" capped rebar stamped "Smith" on the East boundary line of said Lot 1 and also being on the West Right-of-Way margin of National Boulevard (having a Right

of-Way of 90 feet);

thence running along said East boundary line and said West Right-of-Way margin and along a curve to the left having a chord and distance of N 10°38'26" E, 13.19 feet and a radius of 455.00 feet to a point;

thence leaving said East boundary line and said West Right-of-Way margin, S 88°39'58" E, 121.24 feet to the Point of Beginning.

The above described Right-of-Way contains 0.048 acres, (2094 square feet) more or less.

("Street"), which is situated and lying and being within the corporate limits of the City; and

WHEREAS, the Owner desires to vacate the Street; and

WHEREAS, adequate, convenient and reasonable means of ingress and egress are available to the Owner and other owners of real properties within the general vicinity of the Street by virtue of remaining streets and alleys within the City; and

WHEREAS, heretofore, the Street was acquired by, and dedicated to, the City and the public by virtue of prescription, public user or otherwise; and

WHEREAS, Owner has executed a Declaration of Vacation dated as of December 16th, 2014 vacating the Street subject to approval of and assent to, and vacation by, the City Council of the City.

NOW, THEREFORE, pursuant to Sections 23-4-2, 23-4-5, 23-4-20 and 35-2-54 of the Alabama Code of 1975, and other applicable law, all as last amended, the Owner, as the owner of all real property abutting the Street, does hereby petition the City Council of the City for approval of and assent to vacation of, and to vacate, the Street.

As grounds for the relief sought, Owner petitions, represents and shows unto the City Council of the City as follows:

1. That the Street is more particularly described as:

A part of the SW ¼, Section 31, Township 4S, Range 1E, in Madison County, Alabama and being more fully described as follows:

Commencing at the Southwest corner of section 31, T-4-S, R-1-E of the Huntsville Meridian, Madison County, Alabama, said point being further described as lying on the South boundary line of Lot 1 of National Subdivision Third Addition, as recorded in Document No. 20130404000216180 in the Office of the Judge of Probate of Madison County, Alabama;

thence from the Point of Commencement and running along said South boundary line, S 88°46'25" E, a distance of 906.42 feet to a point on the East boundary line of said Lot 1;

thence running along said East boundary line, N 01°19'52" E, 671.11 feet to a point on the North boundary line of said Lot 1, also being the South Right-of-Way margin of Meadowbrook Drive (having a Right-of-Way of 60 feet);

thence along said North boundary line and said South Right-of-Way margin, N 88°39'58" W, 296.18 feet to the Point of Beginning;

thence from the Point of Beginning running along said South Right-of-Way margin and a curve to the left having a chord bearing and distance of S 51°23'02" W, 44.95 feet and a radius of 35.00 feet to a point;

thence continuing along said South Right-of-Way margin, N 78°33'47"W, 90.32 feet to a 5/8" capped rebar stamped "Smith" on the East boundary line of said Lot 1 and also being on the West Right-of-Way margin of National Boulevard (having a Right-of-Way of 90 feet);

thence running along said East boundary line and said West Right-of-Way margin and along a curve to the left having a chord and distance of N 10°38'26" E, 13.19 feet and a radius of 455.00 feet to a point;

thence leaving said East boundary line and said West Right-of-Way margin, S 88°39'58" E, 121.24 feet to the Point of Beginning.

The above described Right-of-Way contains 0.048 acres, (2094 square feet) more or less.

2. That, to the best of Owners' actual knowledge:
 - a. There are no other owners of lots or parcels of land abutting the Street which will be cut off from access thereby over some other reasonable and convenient way;
 - b. It is in the interest of the public that the Street be vacated;
 - c. The Street is no longer needed for public or municipal purposes;
 - d. The retention of the Street will not benefit the City or the public;
 - e. Vacation of the Street will not deprive other property owners of such right as they may have to adequate, convenient, and reasonable means of ingress and egress to and from their respective real properties, which such right is afforded by remaining streets and alleys within the City; and

f. No owner of real property served by the Street objects to the vacation of the same.

WHEREFORE, the premises considered, Owner respectfully petitions and requests that the City Council of the City give such notices, set and conduct such public hearings, adopt such resolutions and ordinances, and take such other actions, all as are necessary to approve of and assent to vacation of, and to vacate, the Street as required by applicable law.

IN WITNESS WHEREOF, the Huntsville City Board of Education, a political subdivision of the State of Alabama has caused this Petition to be executed the 24 day of February, 2015, effective as of the 16th day of December, 2014.

HUNTSVILLE CITY BOARD OF EDUCATION,
a political subdivision of the State of Alabama

By: E. Casey Wardynski
E. Casey Wardynski
Its Superintendent

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, Celeste T. Moody, a Notary Public in and for said County in said State, hereby certify that E. Casey Wardynski, whose name as Superintendent of HUNTSVILLE CITY BOARD OF EDUCATION, a political subdivision of the State of Alabama, is signed to the foregoing Petition for Approval of and Assent to Vacation of, and to Vacate, Street, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing Petition for Approval of and Assent to Vacation of, and to Vacate, Street, he, as such officer and with full authority, executed the same voluntarily for and as the act of the said Huntsville City Board of Education, a political subdivision of the State of Alabama.

GIVEN UNDER MY HAND and official seal on this the 24 day of February, 2015.

My Commission Expires:
Commission Expires 02-12-2017

Celeste T. Moody
Notary Public
State of Alabama
County of Madison

